

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17508 of Barbara Allan, pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (formerly authorized by BZA Order Nos. 15713 & 16915) having 25 children (ages 2 to 4 years) and 4 staff under section 205, in the R-1-B District at premises 2828 Hurst Terrace, N.W. (Square 1420, Lot 12).

HEARING DATE: September 5, 2006
DECISION DATE: September 5, 2006 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 205. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17508
PAGE NO. 2

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**, **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Approval shall be for a period of **TEN (10) YEARS**.
2. Enrollment shall be limited to a maximum of 25 children, between the ages of two and five years, on site at any one time.
3. The maximum number of employees shall be four.
4. The hours of operation shall be from 9:00 a.m. until 12:00 p.m., Monday through Friday, September through May.
5. The maximum number of special events per year shall be three, including any open-house(s).
6. Prior to the occurrence of each special event, the Applicant shall provide 30 days' written notice of such event to her adjacent neighbors and to ANC 3D. Such notice shall be calculated to reach the ANC prior to a regularly-scheduled ANC meeting.
7. The timing of special events shall coincide with the hours of operation of the center.
8. The center shall, at all times of operation, have a traffic plan in place, including, at a minimum, the following provisions:

For Arrival and Dismissal:

- a. Parents or other authorized persons (hereinafter referred to as "parent(s)") dropping-off or picking-up children attending the center may only queue up their vehicles directly in front of the subject property.
- b. At no time can there be more than three vehicles in front of the subject property. If there are three vehicles already in line, the next parent's vehicle must continue down Hurst Terrace and drive around the block.
- c. At no time, should a vehicle block a driveway.
- d. There shall be no parent socializing which might impede the traffic flow during child drop-off and pick-up.

- e. Parents must not park their vehicles on the opposite (east) side of Hurst Terrace and walk the child(ren) accompanying them across the street to or from the center.
- f. At no time shall a child or children be let out of a vehicle on the driver's side.

For Arrival:

- g. Drop-off shall be between 8:55 a.m. and 9:15 a.m. If a parent is late, he/she should park legally and walk the child(ren) accompanying him/her to the center.
- h. Parents are to remain in their vehicles. The Applicant or one of her staff will open the vehicle door and assist the child(ren) out.
- i. Parents are not to let children out of their vehicles until they are next in line and the Applicant or a staff member is available to assist the child(ren).
- j. After dropping off a child, the parent is not to make a U-turn, but to continue straight down Hurst Terrace.

For Dismissal:

- k. Children will be brought out to the parents' vehicles starting at 12:00 noon. Parents should line up no earlier than 11:50 a.m.
- l. Parents are to remain in their vehicles. The Applicant or one of her staff will open the vehicle door and assist the child(ren) in.
- m. After picking up a child, the parent is not to make a U-turn, but to continue straight down Hurst Terrace.
- n. If a parent needs to pick up a child or children early, he/she must park legally on the opposite (east) side of Hurst Terrace (so as not to interfere with vehicles queuing up in front of the subject property to pick up children) prior to 11:50 a.m., and then walk to the center.

Generally:

- o. All caregivers shall be made familiar with, and told to abide by, the provisions of this traffic plan.
 - p. Failure to abide by the provisions of this traffic plan more than twice will cause the child(ren) of the non-compliant parent to be expelled from the center.
9. During drop-off and pick-up times, there shall be a staff member stationed outside the center monitoring the center traffic, assisting in the drop-off and pick-up of children and escorting the children to and from vehicles and the child development center.

10. Parents shall be notified at least once each year, and more often as necessary, of the provisions of the traffic plan, of proper and safe drop-off and pick-up procedures, and of the consequences of non-compliance with the traffic plan.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., Gregory N. Jeffries and John A. Mann II to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: SEP 08 2006

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
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BZA APPLICATION NO. 17508

As Director of the Office of Zoning, I hereby certify and attest that on **SEPTEMBER 7, 2006**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Single Member District Commissioner 3D05
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BZA APPLICATION NO. 17508
PAGE NO. 2

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ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning



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